

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
BEAUMONT DIVISION

IN RE NORPLANT CONTRACEPTIVE	§	MDL No. 1038
PRODUCTS LIABILITY LITIGATION	§	ALL CASES
	§	

ORDER DIRECTING ALL JOINED PLAINTIFFS IN ANY
SINGLE CASE FILED ON OR AFTER OCTOBER 4, 1996, WHO HAVE
FAILED TO ALLEGE IN THEIR ORIGINAL COMPLAINTS THE STATE IN
WHICH EACH JOINED PLAINTIFF HAD THE IMPLANTATION OF NORPLANT
PERFORMED, TO PROVIDE SUCH INFORMATION VIA AN OFFER OF PROOF

The court enters this Order, *sua sponte*, directing all joined plaintiffs in any single case filed on or after October 4, 1996, who have failed to allege in their original complaints the state in which each joined plaintiff had the implantation of Norplant performed, to provide the court such information via an offer of proof on or before April 17, 1998.¹ On October 4, 1996, the court entered an order requiring that “joined Plaintiffs or Plaintiff-Intervenors in any single case must be represented by the same counsel and must have had their implantation of Norplant performed in the same state.” *See* Order of October 4, 1996 at 4. Numerous joined plaintiffs filing their cases since that date, however, have failed to allege in their original complaints the state in which each joined plaintiff had Norplant inserted. Without this information, the court is unable to determine whether those cases are in compliance with the court’s previous Order.

As a result, the court ORDERS all joined plaintiffs in any single case filed on or after October 4, 1996, who have failed to allege in their original complaints the state in which each joined plaintiff had the implantation of Norplant performed, to provide the court such information via an

¹This Order is not applicable to (1) those cases in which only one plaintiff is named in the original complaint or (2) those cases in which the original complaint alleges the information requested in this Order.

offer of proof on or before April 17, 1998.² Those joined plaintiffs who fail to provide the court with the requisite information in the appropriate form by the April 17, 1998, deadline will face dismissal without prejudice. Further, the court ORDERS all joined plaintiffs in any single case filing Norplant claims after the date of this Order to allege in their original complaints the state in which Norplant implantation was performed for each joined plaintiff.³

SIGNED this the 17TH day of February 1998.

RICHARD A. SCHELL
UNITED STATES DISTRICT JUDGE

² See Appendix A for the required form of the offer of proof. Only one offer of proof should be filed for any single case. The offer of proof should include (1) the name of each plaintiff in a single case, (2) the name of counsel representing each plaintiff, and (3) the state in which each plaintiff had her Norplant inserted.

³As of the date of this Order, there are over 3,000 active cases filed in the Norplant Contraceptive Products Liability Litigation. Collectively, the number of named plaintiffs involved in these cases totals over 35,000. The court entered this Order and its previous Order of October 4, 1996, with the purpose of simplifying the coordination of this massive endeavor by ensuring that every plaintiff in any single case is represented by the same counsel and has had Norplant inserted in the same state as every other joined plaintiff in that case.

The court notes that its previous Order of October 4, 1996, requires that "*Plaintiff-Intervenors* in any single case must be represented by the same counsel and must have had their implantation of Norplant performed in the same state." See Order of October 4, 1996 at 4. (emphasis added). Given the court's aforementioned purpose, this holding, in essence, requires all Plaintiff-Intervenors joining in a single case to have had their implantation of Norplant performed in the same state as all other joined plaintiffs in that case. Information indicating prospective Plaintiff-Intervenors' states of implantation and all joined plaintiffs' states of implantation in any single case should be alleged in all future motions to intervene.

IN RE NORPLANT CONTRACEPTIVE	§	MDL No. 1038
PRODUCTS LIABILITY LITIGATION	§	
_____	§	
JANE DOE, et al.	§	
	§	
Plaintiffs,	§	
	§	
v.	§	Case No. 1: XX-CV-XXXX
	§	
AMERICAN HOME PRODUCTS	§	
CORPORATION, a Delaware Corporation	§	
d/b/a WYETH-AYERST LABORATORIES,	§	
and WYETH LABORATORIES, INC.,	§	
	§	
Defendants.	§	

<u>Plaintiff</u>	<u>Counsel of Record</u>	<u>State of Implantation</u>
1. (insert name of Plaintiff)	(insert name of counsel)	(insert name of state)
2. Etc.,		
3. Etc.,		